

Brian V. Gerd
360 K Street, Suite 200
Anchorage, AK 99501
Phone: (907) 276-5727
Fax: (907) 276-2953
bgerd@richmondquinn.com

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

ENERSYS DELAWARE INC.,)	
)	
Plaintiff,)	
v.)	
)	
KAKTOVIK ENTERPRISES, LLC and)	
MARSH CREEK, LLC,)	
)	Case No. 3:19-cv-_____
Defendants.)	
_____)	

COMPLAINT

COMES NOW, Plaintiff EnerSys Delaware Inc., by and through counsel,
RICHMOND & QUINN, and hereby complains and alleges as follows:

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff was and is a foreign corporation incorporated in Delaware and headquartered in Reading, Pennsylvania that manufactures and sells battery products.
2. Defendants were and are Alaskan Limited Liability Corporations, registered in good standing in the State of Alaska.

Complaint
Energys Delaware, Inc. v. Kaktovik Enterprises, LLC et al., Case No. 3:19-cv-_____
Page 1 of 5

3. Defendants operate and conduct business in the State of Alaska with their physical and mailing addresses located at 2000 East 88th Avenue, Suite 104, Anchorage, Alaska 99507.

4. The parties are citizens of different states and Plaintiff's harms and losses caused by the wrongful conduct of Defendants, as more specifically set forth below, are in excess of \$75,000. This Court therefore has jurisdiction pursuant to 28 U.S.C.A. §1332.

5. Venue is proper in Anchorage, Alaska under the facts of this matter and pursuant to 28 U.S.C.A. §1391.

FACTUAL EVENTS

6. Over a period of time from on or about November 6, 2017 through February 20, 2018 Defendant Marsh Creek, LLC ("Marsh Creek") submitted multiple orders to EnerSys for the purchase of batteries and other related goods that EnerSys sold.

7. EnerSys fulfilled and shipped these purchase orders, but numerous invoices for Marsh Creek's purchase of these products remain unpaid totaling \$119,974.75, not counting interest.

8. Over a period of time from on or about August 6, 2018, through October 12, 2018 Defendant Kaktovik Enterprises, LLC ("Kaktovik" and together with Marsh Creek, the "Defendants") submitted to EnerSys orders for the purchase of more batteries and other goods.

Complaint

Energys Delaware, Inc. v. Kaktovik Enterprises, LLC et al., Case No. 3:19-cv-_____

Page 2 of 5

9. EnerSys fulfilled and shipped these purchase orders. However multiple invoices for Kaktovik's purchases also remain unpaid, totaling \$131,134.29 not counting interest.

10. On March 14, Kaktovik informed EnerSys via email that it would no longer continue their business relationship with EnerSys and would reorganize to pursue other business opportunities.

11. On March 29, 2019 EnerSys sent a demand letter including copies of the unpaid invoices to Kaktovik and Marsh Creek demanding payment in full of the outstanding debt owed by April 12, 2019.

12. As of the March 29, 2019 demand letter, Kaktovik and/or Marsh Creek owed EnerSys a total debt of \$251,109.04 in unpaid invoices for goods received from EnerSys in response to purchase orders.

13. A representative of Kaktovik and/or Marsh Creek acknowledged receipt of the demand letter. However, neither Kaktovik nor Marsh Creek made any payments by the demand date, nor did they make any arrangements with EnerSys regarding the outstanding debts or propose a payment plan for the unpaid invoices.

14. Having received no further communication from either Kaktovik or Marsh Creek regarding the unpaid invoices, Plaintiff files this suit seeking judgment and recovery in full for the debt owed.

Complaint

Energys Delaware, Inc. v. Kaktovik Enterprises, LLC et al., Case No. 3:19-cv-_____

Page 3 of 5

CAUSES OF ACTION

COUNT I – BREACH OF CONTRACT

15. Plaintiff re-alleges paragraphs 1 through 14 as if set forth in full.

16. Both Marsh Creek and Kaktovik entered into contracts for the purchase of goods from EnerSys.

17. EnerSys fulfilled all purchase orders and shipped the ordered goods to the shipping addresses Marsh Creek and Kaktovik provided on their order forms.

18. Defendants' failure to pay EnerSys the agreed upon price for these goods constitutes a breach of contract.

19. As a result of Defendants' failure to pay the aforementioned sums, Plaintiff has suffered damages including the outstanding amount owed, reasonable interest, costs, and attorney's fees incurred in an effort to collect payment of these outstanding debts.

COUNT II – UNJUST ENRICHMENT

20. Plaintiff re-alleges paragraphs 1 through 19 as if set forth in full.

21. Plaintiff conveyed a benefit to the Defendants by fulfilling the purchase orders and shipping the specified goods to the addresses set forth by Defendants in their order forms.

22. Defendants benefitted from the shipment and receipt of these goods.

23. Such benefit without providing EnerSys compensation in the form of the agreed upon price and value of the delivered goods is inequitable and unjust.

LAW OFFICES
RICHMOND & QUINN
A PROFESSIONAL CORPORATION
360 K STREET, SUITE 200
ANCHORAGE, ALASKA 99501
TELEPHONE: (907) 276-5727
FACSIMILE: (907) 276-2953

Complaint

Energys Delaware, Inc. v. Kaktovik Enterprises, LLC et al., Case No. 3:19-cv-_____

Page 4 of 5

24. As a result of Defendants' conduct and failure to pay EnerSys, Defendants have been unjustly enriched at the expense of the Plaintiff.

WHEREFORE, having stated their complaint against Defendants, Plaintiff prays this court award them the following relief:

1. The court issue a judgment against Defendants for the full amount owed by the Defendants to the Plaintiff, including prejudgment interest.
2. The court issue post-judgment interest on the award if not timely paid by Defendants.
3. The court award Plaintiff attorney's fees and costs reasonably incurred in prosecuting this matter and collecting this debt.
4. The court award any such further relief it deems to be fair, just, and equitable in the resolution of this matter.

DATED this 2nd day of July 2019 at Anchorage, Alaska.

RICHMOND & QUINN

By 

Brian V. Gerd, ABA 1810097
360 K Street, Suite 200
Anchorage, AK 99501
Ph: (907) 276-5727
Fax: (907) 276-2953
bgerd@richmondquinn.com

Attorneys for Plaintiff

2396\001\PLEADINGS\FEDERAL COURT\COMPLAINT.docx

Complaint

Energys Delaware, Inc. v. Kaktovik Enterprises, LLC et al., Case No. 3:19-cv-_____

Page 5 of 5